

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

MDL No. 1917

Case No. C-07-5944 JST

This Order Relates To:

ALL INDIRECT PURCHASER ACTIONS

**ORDER REGARDING OBJECTION TO
THE SPECIAL MASTER'S REPORT
AND RECOMMENDATION RE:
CALIFORNIA ATTORNEY GENERAL'S
REQUEST FOR EXTENSION OF
CLAIMS SUBMISSION DEADLINE**

On January 6, 2016, Special Master Martin Quinn filed a Report and Recommendation regarding a request by the California Attorney General, who had asked that the final date for submitting claims in the Indirect Purchaser Plaintiff (“IPP”) settlement be extended from December 7, 2015 to June 30, 2016. See ECF No. 4281 (“R&R”). The Special Master recommended the request be granted, but only with respect to all California natural persons. See id. at 2, 5. On January 12, 2016, lead counsel for the IPPs filed an objection to the Special Master’s Report and Recommendation. See ECF No. 4292 (“Obj. 1”). The California Attorney General filed a Response to the IPPs’ Objection on January 13, 2016. See ECF No. 4307 (“Response 1”). Mr. Dan L. Williams & Co. (the “Objector”) then filed a second objection to the R&R on January 15, 2015. See ECF No. 4312 (“Obj. 2”). The California Attorney General filed a response to this second objection later the same day. See ECF No. 4314 (“Response 2”). The Court hereby OVERRULES the first objection, OVERRULES the second objection WITHOUT PREJUDICE, and ADOPTS the Report and Recommendation as set forth herein.

The original due date for claims pursuant to the IPP settlement (which is presently pending final approval) was December 7, 2015. The California Attorney General has reached a potential

1 settlement in the parallel state court case, State of California et. al. v. Samsung SDI, Co., LTD.,
 2 Case No. 11-51584. This case was brought pursuant to the Attorney General's parens patriae
 3 authority.¹ The Attorney General will seek preliminary approval of the settlement on January 27,
 4 2016. If granted, notice would have to be provided to natural persons who are citizens of
 5 California. "All parties recognize that the only sensible approach is to have California persons
 6 obtain monetary relief for the parens action through the federal IPP settlement fund." R&R at 3.
 7 The Attorney General and the IPPs agree that all such people are appropriate claimants to the
 8 (federal) IPP settlement and that notice pursuant to Federal Rule of Civil Procedure 23 has been
 9 fulfilled. Id. at 2, 4. However, the Attorney General believes the prior notice will not be adequate
 10 for the secondary purpose of notification for this state case, and moreover notes that the deadline
 11 will have long-since passed by the time the state notification is sent out. See id. at 2-4.

12 The Court reviews the Special Master's findings of fact and conclusions of law de novo,
 13 but "the court may set aside a master's ruling on a procedural matter only for an abuse of
 14 discretion." Fed. R. Civ. P. 53(f)(5); see also ECF No. 4077 at 7 (as amended at ECF No. 4298 at
 15 3). As the Attorney General points out, the IPPs do not object to the determinations of procedure
 16 or findings of fact made by Special Master Quinn. See Response 1 at 2.

17 Special Master Quinn cites out-of-circuit authority for the proposition, and the IPPs here
 18 concede, that "the Court has the equitable power to move claim deadlines in order to facilitate and
 19 encourage the filing of claims." Obj. 1 at 1 (quoting R&R at 4); see In re Cendant Corp. Prides
 20 Litig., 233 F.3d 188, 194-95 (3d Cir. 2000) (affirming that a district court may allow late claims,
 21 should ensure adequate deadlines, and may consider extension of deadlines for good cause); see
 22 also In re Gypsum Antitrust Cases, 565 F.2d 1123, 1128 (9th Cir. 1977) ("the district court had
 23 discretion to grant late claims[,] and denial of an extension is reviewed for abuse of discretion")²;
 24 In re Valdez, 289 F. App'x 204, 206 (9th Cir. 2008) (affirming a district court's refusal to accept a
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26 ¹ This authority is derived from Cal. Bus. & Prof. Code § 16760(a)(1), provisions of which are
 27 similar to a comparable federal statute, 15 U.S.C. § 15c.

28 ² Though an older case, Gypsum remains authoritative. See Lemus v. Madar, 594 F. App'x 419
 (9th Cir. Feb. 27, 2015) (quoting Gypsum for the proposition that denial of an extension is
 reviewed for abuse of discretion).

late claim where appellant made “no showing that [his] claim was treated in a fashion inconsistent with those of other claimants similarly situated” (quoting Gypsum, 565 F.2d at 1128) and that “other claimants had plausible excuses for not filing timely, whereas appellant offered no plausible excuse.”). Special Master Quinn also cites, and the IPPs again concede, that “California, and only California, brought a parens action.” Id. at 2 (quoting R&R at 4). The IPPs nonetheless maintain an objection to the extension of the claims deadline, citing concerns that extending the deadline “may engender objections” and that it may “cause potential disruption to [the] settlement plan” Obj. 1 at 2 (ellipses in original).

Counsel for the IPPs makes several valid points. It seems clear that the initial selection of December 7, 2015 as the claims deadline was not a clerical error, see id. at 11, and no party asked for an extension of the claims deadline when the hearing for final approval was rescheduled or at any time prior to the December 7, 2015 deadline. Many cases have claims submission deadlines which pass prior to or on approximately the same day as final approval is granted. See id. And the IPPs’ counsel is surely right that any extension to one group of claimants and not others might result in objections. See id. at 12. Indeed, such an objection has already been filed. See Obj. 2.

However, the impact on the class requires deeper examination. As the IPPs note, there are indeed corporate entities which seek to aggregate and file claims on behalf of corporations in exchange for a fee. See id. at 11-12; ECF No. 4235 (denying an ex parte request made in this case which appears to be from one such entity). Even so, if the IPPs believe – as the Court assumes they do – that their notice program was effective, then they must also believe that there are relatively few eligible class members who were previously unaware of this action. Therefore, while an extension of the claim deadline might afford some a chance to reconsider an earlier choice not to file, it is unlikely to reach many new potential claimants who are natural persons in California. Conversely, if the IPPs believe that there are many claimants who have not yet received notice, providing supplemental notice and an extended claim period does not harm the interests of the class and furthers the interest of the Court in ensuring payment to those harmed (be it natural persons or businesses). And even if a few additional claims are filed, there is no reason to predict – and no evidence before the Court to suggest – that the volume of such claims will be

1 enough to diminish appreciably the recovery of existing claimants.

2 The greater concern is whether an extension is necessary at all, and if so, whether it is fair
3 to give this extra notice and time to file only to natural persons who reside in California.

4 The Court finds that an extension is necessary, but only reaches the issue with respect to
5 California natural persons. See Response 2 at 1. The IPPs agree that the settlement fund for the
6 settlement achieved in State of California v. Samsung must come from the federal IPP settlement.
7 The California Attorney General must ensure that if notice of the settlement is issued it provides
8 opportunity to make a claim; otherwise the notice becomes little more than a press release
9 concerning the California Attorney General's litigation success rather than a genuine opportunity
10 for natural persons residing in California to recover damages. See R&R at 4-5. Therefore, the
11 Court agrees with the Special Master that the claim deadline should be extended for California
12 natural persons.

13 The Court further finds it is fair to provide this extra notice and time only to those natural
14 persons who reside in California. The Attorneys General of other states had the same opportunity
15 to consider filing a parens patriae suit or seek whatever other remedy was available under their
16 respective state's laws, but only California's Attorney General actually did pursue this form of
17 relief, and did so specifically on behalf of natural persons in California. It is not unreasonable to
18 avoid undermining the purpose of the ensuing settlement by wiping away any actual chance for
19 the citizens of California to recover damages by refusing to extend the deadline. Because
20 California is the only state to have achieved a separate settlement, this logic applies only to it.

21 The Court does not reach the issues presented in the second objection.³ See Obj. 2 at 1-2.
22 The only issue presently before the Court is whether to grant an extension regarding the California
23 Attorney General's settlement, not the adequacy of notice to the entire class. Accordingly, it is
24 proper for the Court to treat all similarly situated natural persons in California similarly by
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26 ³ The California Attorney General suggests that any opportunity to object to the extensions has
27 been waived. See Response 1 at 2-3. While it might be true that nobody else objected to the
28 Special Master concerning the extension, objections to orders by the Special Master are permitted
up to fourteen (14) days after a Report and Recommendation are filed. See ECF No. 4053-1 at 7.
Therefore, Obj. 2 was still timely as it was filed with the Court by January 20, 2016.

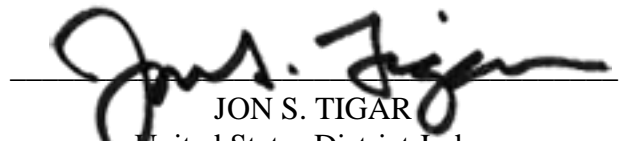
1 granting them a uniform extension, and to treat all other similarly situated natural persons of states
2 whose Attorneys General did not file a parens patriae action similarly by not granting the same
3 extension to them. See Gypsum, 565 F.2d at 1128.

4 The Special Master will address the adequacy of class-wide notice in his forthcoming
5 Report and Recommendation. R&R at 5:15-17. The Court will consider any timely objections to
6 the Special Master's treatment of that issue at the appropriate time.

7 Therefore, the Court hereby OVERRULES the IPPs' objection, OVERRULES Objector's
8 objection WITHOUT PREJUDICE, and ADOPTS the Report and Recommendation to the extent
9 it is consistent with this order. This excludes R&R at 5:3-5 (discussing who opposed or objected
10 to the R&R), 5:13-18 (discussing class-wide adequacy of notice). The claims deadline for natural
11 persons who reside in California is hereby extended until June 30, 2016. If, however, for any
12 reason the state court denies preliminary or final approval of the California parens action, lead
13 counsel for the IPPs and the California Attorney General are hereby ORDERED to notify the
14 Court within ten (10) days of any such ruling and in the same filing must either (1) SHOW
15 CAUSE why this extension should not be vacated or else (2) file a joint statement on how properly
16 to readdress this matter.

17 IT IS SO ORDERED.

18 Dated: January 26, 2016

19 
20 JON S. TIGAR
United States District Judge

United States District Court
Northern District of California